

**CITY OF DULUTH**

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 14-016	Contact	Steven Robertson	
Application Type	Variance from Front Yard Setback	Planning Commission Date	April 8, 2014	
Deadline for Action	Application Date	March 4, 2014	60 Days	May 3, 2014
	Date Extension Letter Mailed	March 19, 2014	120 Days	July 2, 2014
Location of Subject	714 West 4th Street			
Applicant	Louise and John Hawley	Contact		
Agent	Doug Zaun	Contact	dzaun@wagnerzaun.com	
Legal Description	010-1270-01340, Lots 114 thru 122 even numbered lots			
Site Visit Date	March 29, 2014	Sign Notice Date	March 25, 2014	
Neighbor Letter Date	March 26, 2014	Number of Letters Sent	65	

Proposal

The applicant is requesting a variance from the front yard setback requirements, to allow a 240 square feet structure (addition between existing home and existing detached garage) 2 1/2 feet from the front yard setback instead of the 25 feet required by the UDC. According to the applicant, "the addition will allow for covered, conditioned access from the garage to the residence and will allow for the addition of an accessible main floor bedroom/bathroom and expanded kitchen. This addition will create increased functionality and value for the property and will allow the current home-owners to reasonably occupy the home during their retirement."

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

50-37.9.C. - General Variance Criteria (paraphrased here): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

50-37.9.H.- When the application is for the reduction of a required front, rear or side yard setback, the commission may require the submission of a landscaping and buffering plan, and may require that all required landscaping or buffering, or landscaping and buffering of equal effectiveness, be installed within the reduced setback area. Decorative fencing and decorative wall structures may be proposed where more intense vegetated landscaping will not provide adequate mitigation of impacts on adjacent properties. The commission shall only approve the variance if the landscaping and buffering will mitigate impacts on adjacent properties as effectively as those required by Sections 50-25 and 50-26 of this Chapter.

1-11-14

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Traditional Neighborhood Future Land Use. Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) The applicant is requesting a variance from the front yard setback requirements, to allow a 240 square foot structure (addition between existing home and existing detached garage) 2 1/2 feet from the front yard setback instead of the 25 feet required by the UDC.
- 2) The use of the property is conforming to the zoning code (single family residential in the R-1 zone). However, the structure is not conforming as it is within the front yard setback. Any expansion of a non-conforming structure that increases the non-conforming is not allowed, except with variance.
- 3) According to the Saint Louis County Assessor, the home was built in 1913 and has approximately 2,000 square feet. The garage was built in 1986 and has 556 square feet. According to the City's GIS mapping system, there is a 40 foot elevation change from one edge of the property to another, and there is exposed bedrock on a portion of the property.
- 4) The applicant received a variance from the City's Board of Zoning Appeals on September 24, 1985 (with the adoption of the UDC in 2010, the BZA was abolished and the Planning Commission is now the body that reviews variance requests). The variance was to allow the detached garage up to 1 foot from the lot line, with the condition that the garage be built a minimum of 6 feet from the house.
- 5) The applicant currently has a reasonable use of the property. The applicant has already sought, and received, relief from the strict application of the zoning code to construct the garage in 1984. The requested relief, while understandable, is for the convenience of the applicant and is not necessary for the preservation and enjoyment of a substantial property right.
- 6) If the variance was denied, it would not deprive the property owner of a substantial property right.
- 7) No public, agency, or City comments were received.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Staff recommends Planning Commission deny the requested variance, for the following reasons:

- 1) Applicant has not met the standards set forth for a variance.
- 2) The relief is not necessary for the preservation and enjoyment of a substantial property right.

M-2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning
PL 14-016 Variance
714 W 4th St

Legend



Vacated ROW

Easement Type

Utility Easement

Other Easement

Future Land Use

Preservation

Recreation

Rural Residential

Low-density Neighborhood

Traditional Neighborhood

Urban Residential

Neighborhood Commercial

Neighborhood Mixed Use

General Mixed Use

Central Business Secondary

Central Business Primary

Auto Oriented Commercial

Large-scale Commercial

Business Park

Tourism/Entertainment District

Medical District

Institutional

Commercial Waterfront

Industrial Waterfront

Light Industrial

General Industrial

Transportation and Utilities

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

M-3



Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, March 19, 2013. Source: City of Duluth.



Legend

Contours 1 Ft

Index_

Intermediate

Index

Trout Stream (GPS)

Other Stream (GPS)

Vacated ROW

Easement Type

Utility Easement

Other Easement

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m-4

Aerial photography from 2011

Prepared by: City of Duluth Planning Division, March 19, 2013. Source: City of Duluth.



Wagner Zaun
ARCHITECTURE

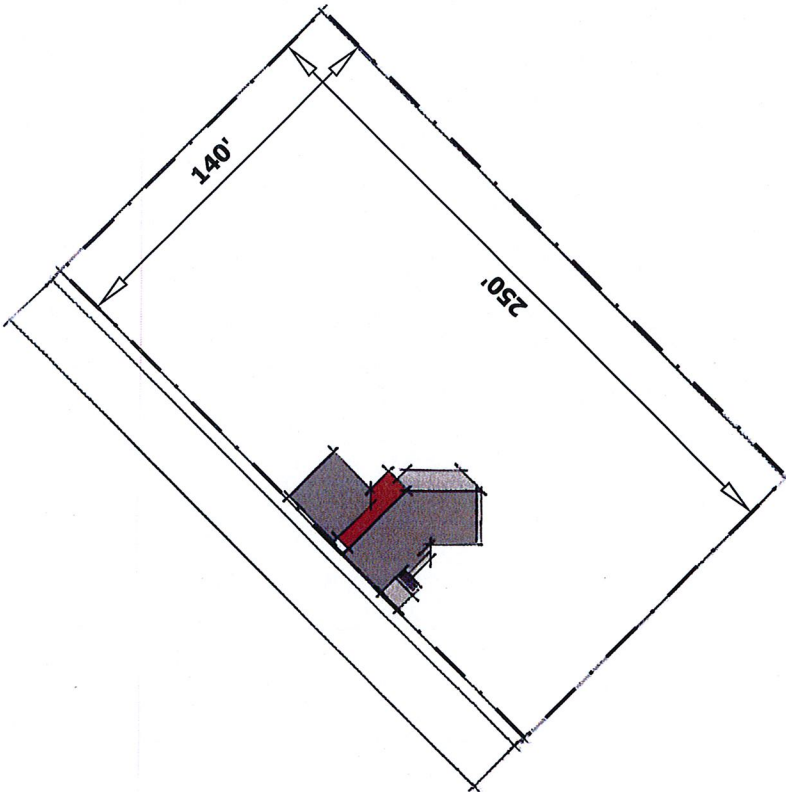
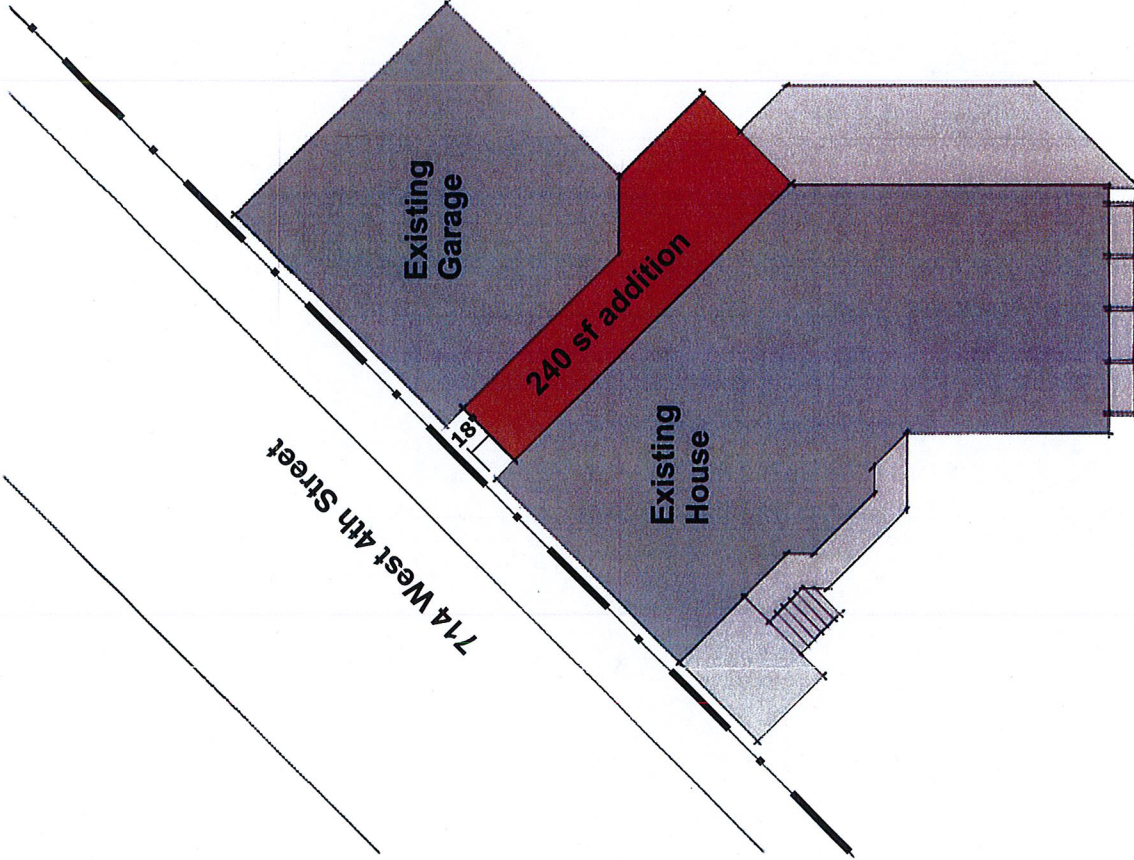
17 N. Lake Ave.
Duluth, MN 55802
218 733-0690
wagnerzaun.com

Hawley
Residence

SCHEMATIC
DESIGN

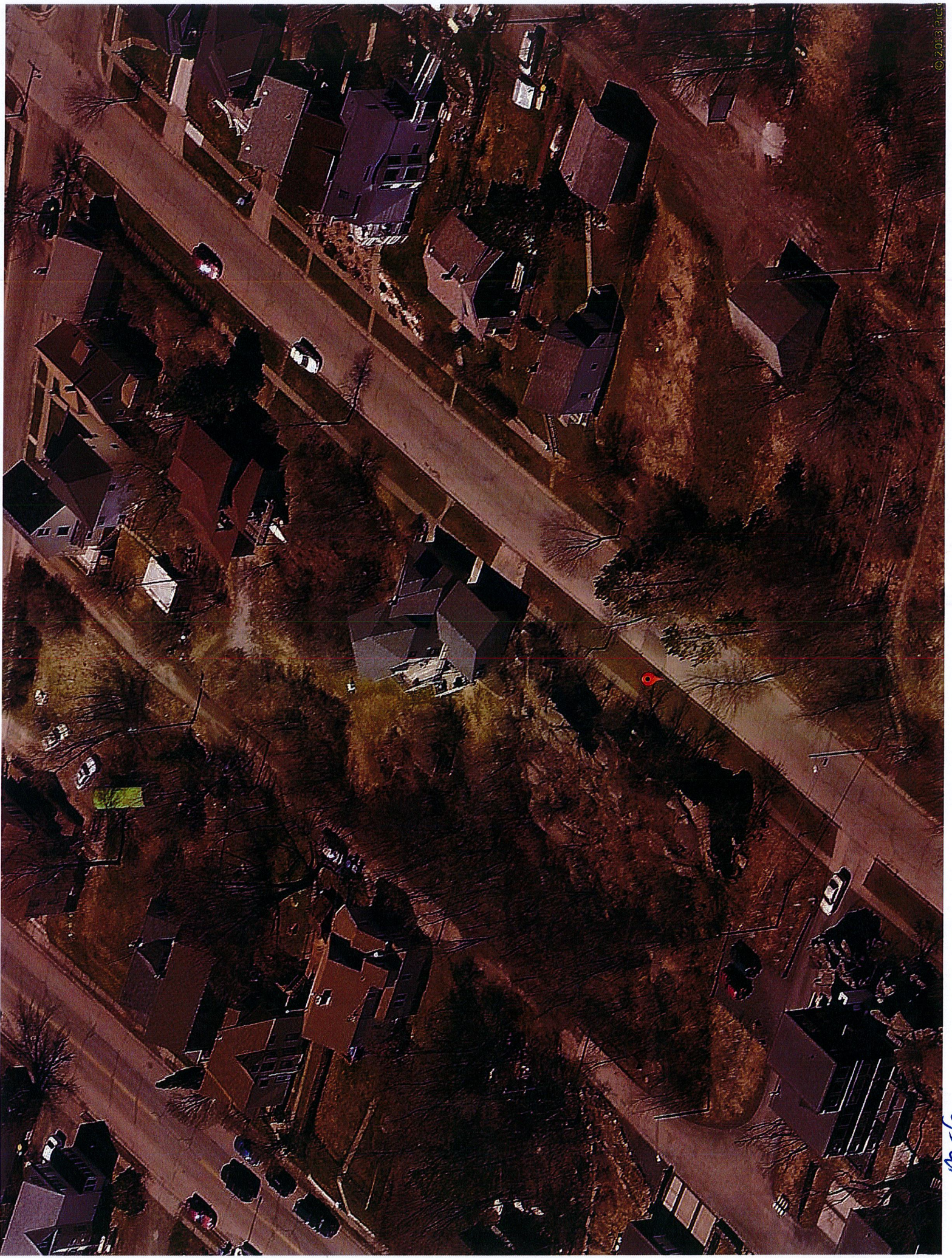
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March 4, 2014
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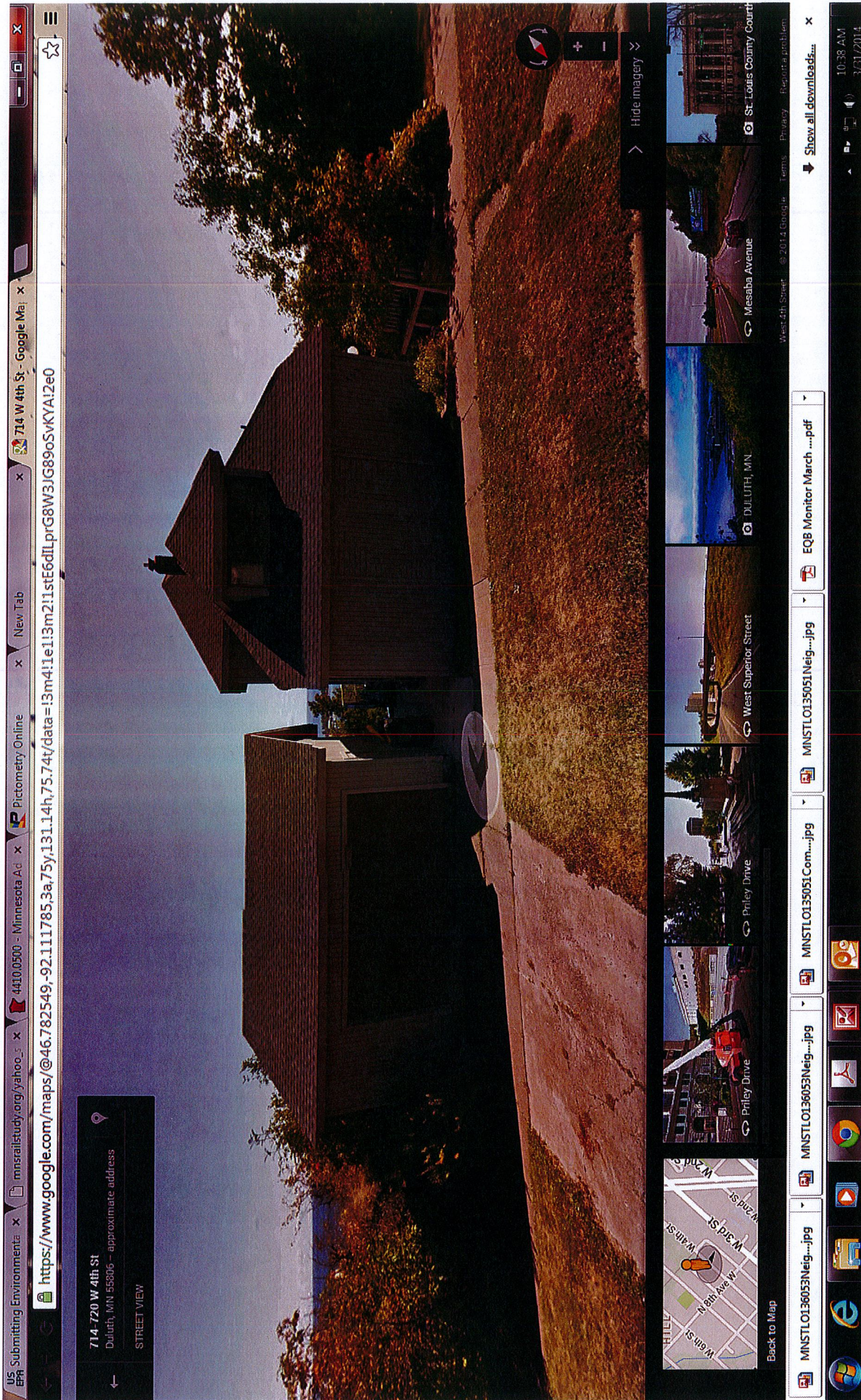
Site Plan

m-5



g-w





M-8

Hawley Residence / Variance Application

714 West 4th Street

March 4, 2014

The proposed variance is to construct a 240 SF addition that attaches the existing detached garage to the existing residence. Additional construction includes new roofing and siding and a remodeling of the existing front porch to improve use & appearance. The addition will allow for covered, conditioned access from the garage to the residence and will allow for the addition of an accessible main floor bedroom/bathroom and expanded kitchen.

This addition will create increased functionality and value for the property and will allow the current home-owners to reasonably occupy the home during their retirement.

The property slopes very steeply (over 20') from the front of the property to the rear. The severe slope is why the existing structures are currently located within the front yard setback. This leaves the only practical location for the addition, to be within the front yard setback.

The 1 story addition will be set back 18" from the face of the house and garage and will infill 6' between these two structures. The addition will have a flat roof so as not to change the existing roof lines or heights. The narrow, 1 story "infill" nature of the addition ensures that adjacent properties or property values will not be negatively impacted.

m-9

RECEIVED MAR 04 2014

MOTION: Stanius: To relax the 7' side yard setback requirement to 1' for the construction of a 6' x 42' cooler addition to be suspended from the east side of existing retail structure with the condition that a use permit be acquired as required by the Water Management Ordinance.

SECOND: Holt

MOTION PASSED: Unanimously.

F.N. 85053 An appeal of Curtis Oil Co., by Blesener Dahlberg & Assoc., to relax the 25' front yard setback requirement and the 25' rear yard setback requirement for the construction of a 28' x 33' irregular shaped, pump island canopy at 5310 East Superior Street.

Mr. Haugsand outlined the matter as indicated on the staff report dated September 16, 1985, which is attached to the file and is a part of these minutes.

Mr. Ray Blesener, of Blesener Dahlberg & Assoc., and Mr. Jack Curtis were present to answer any questions the Board had. Mr. Blesener stated this canopy would improve access and the safety to the property on and off Superior St.

Regarding the condition of no signs, Mr. Blesener said they would like to have an identification sign as they had been allowed to have in the past.

MOTION: Holt: To relax the 25' front yard setback requirement to 3'6" and the 25' rear yard setback requirement to 9' for the construction of a 28' x 33', irregular shaped, pump island canopy to be attached to the building upon removal of a 12' x 33' triangular shaped portion of the building with the condition that no signs or advertising devices be attached to the facia of the proposed canopy.

SECOND: Stanius

MOTION PASSED: Unanimously.

F.N. 85054 An appeal of John Hawley, by David Putzke, to relax the 20' side yard setback requirement for the construction of a 22' x 24' detached garage at 714 West 4th Street.

Mr. Haugsand outlined the matter as indicated on the staff report dated September 16, 1985, which is attached to the file and is a part of these minutes.

Mrs. Louise Hawley and Mr. David Putzke were present to answer any questions the Board had. Mrs. Hawley said they would be willing to comply with the condition that the garage be built 6' from the house (no fire separation would be necessary), however, they need the 1' side yard setback for the following reasons:

The further the garage away from the street, the more it will block the neighbor's view. The proposed garage site is old fill; beyond that is new red clay fill held by a railroad tie wall. If the garage was to be moved back further, it would be built on the red clay fill, putting stress on the railroad tie wall. If the garage was to be built back far enough to allow parking in front of the garage doors, it would have to "be built on stilts" in the middle of the child's play area.

Mr. Holt asked if the retaining wall was sufficient to prevent any sliding of soil. Mrs. Hawley said there was some erosion, but she thought it was the red clay washing out between the cracks in the railroad ties. Mr. Stanius asked how old the retaining wall is. Mrs. Hawley said it was five years old.

2-10

MOTION: Stanius: To relax the 20' side yard setback requirement to 1' for the construction of a 22' x 24' detached garage with the condition that the garage be built a minimum of 6' from the house.

SECOND: Holt

MOTION PASSED: Unanimously.

F.N. 85055 An appeal of Allan Beaulier to relax the 60' front yard setback requirement for the construction of a 24' x 30' detached garage at 10 North 94th Avenue West

Mr. Haugsand outlined the matter as indicated on the staff report dated September 16, 1985, which is attached to the file and is a part of these minutes.

Mr. Beaulier was present to answer any questions the Board had. Mr. Beaulier stated it would be impossible to build a garage in compliance with the requirement setback due to the large amount of fill and leveling that would be necessary. Also, that part of the yard was once gravel wash and was developed into yard because the hillside is situated such that this is the only part of the yard that receives late afternoon sun and this area is used for outdoor activities.

MOTION: Stanius: To relax the 60' front yard setback requirement to 26' for the construction of a 24' x 30' detached garage.

SECOND: Holt

MOTION PASSED: Unanimously.

F.N. 85056 An appeal of Inter City Oil Co., by B & D Pump Service, to relax the 25' front yard setback requirement for the construction of a 24' x 24' single post, pump island canopy at 2525 North Arlington Avenue.

Mr. Haugsand outlined the matter as indicated on the staff report dated September 16, 1985, which is attached to the file and is a part of these minutes.

Mr. Robert Strassburg was present to answer any questions the Board had.

Mr. Holt asked if he would be willing to remove the cigarette sign and he said he would.

MOTION: Holt: To relax the 25' front yard setback requirement to 5' for the construction of a 24' x 24' single post, pump island canopy with a 14'6" vertical clearance with the conditions that no signs or advertising devices be attached to the fascia of the proposed canopy and that the cigarette sign, which is attached to the pole sign, be removed before a building permit is issued.

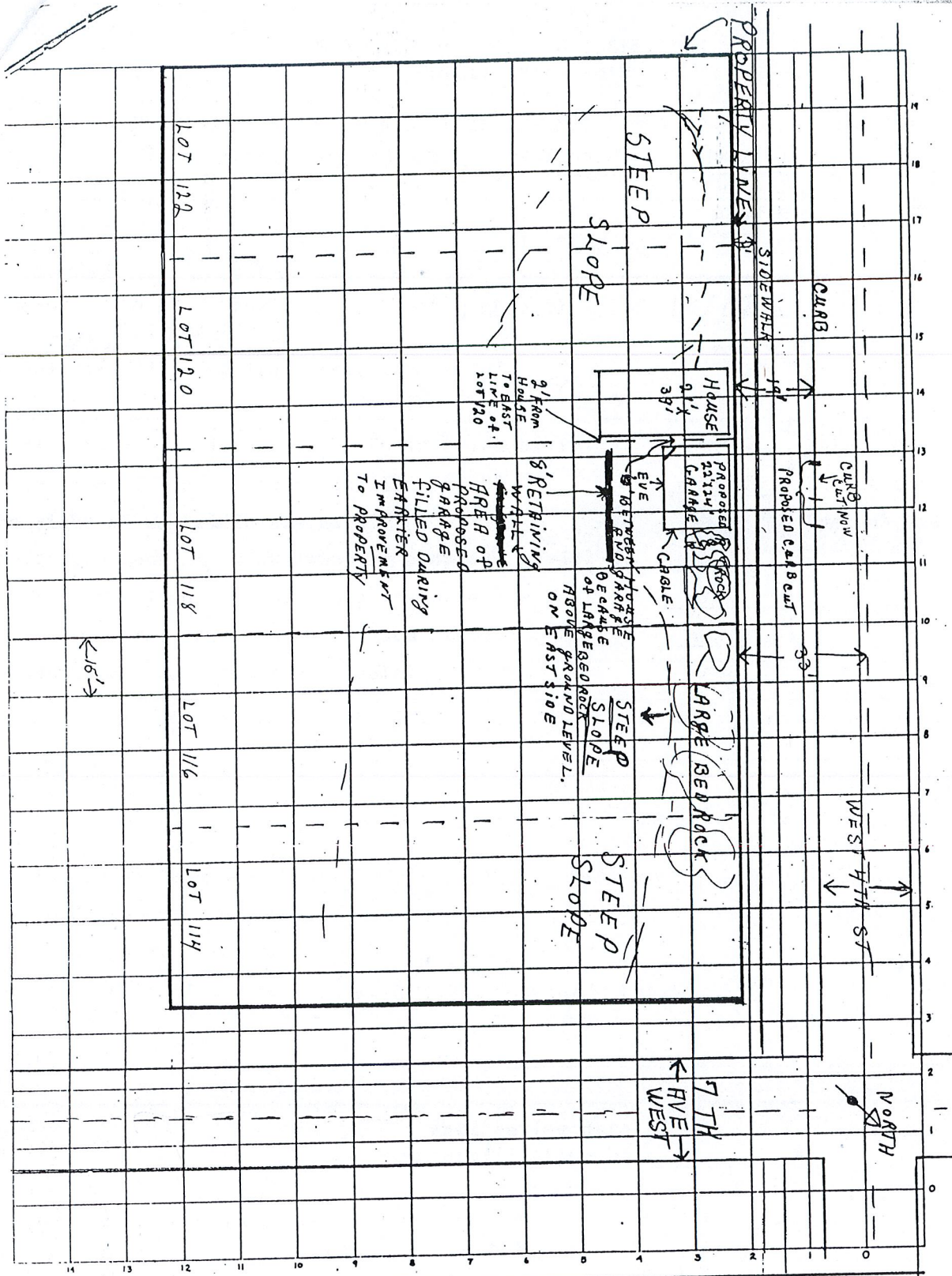
SECOND: Stanius

MOTION PASSED: Unanimously.

F.N. 85057 An appeal of Gary Lofdahl to relax the 20' side yard setback requirement for the construction of a 24' x 28' detached garage at 44 West Buffalo Street.

Mr. Haugsand outlined the matter as indicated on the staff report dated September 16, 1985, which is attached to the file and is a part of these minutes.

Mr. Lofdahl was not present for questions.



The undersigned hereby certifies that he is the owner of LOTS 114, 116, 118, 120, and 122 Block 35

3rd Division

Division

and hereby agrees to locate the proposed garage
as shown by diagram above, and further certifies that the block plan shown above is a correct set back plan of dwell-
ings, built prior to passage of Zoning Ordinance, in Block 35

Date

Aug 30, 1985

Signature

John W. Hawley

Division

21-W